

# Appendix H

## Model Project Agreement

LAND FOR MAINE'S FUTURE FUND

### **PROJECT AGREEMENT** (Pursuant to P.L. 1999 c. 514, Sec. A-6)

**Cooperating Entity:**

**Project Name and Location:**

**Designated State Agency:**

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**Premises Covered by this Agreement:**

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**Scope (Description of Project):**

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**Project Cost:**

LMF Contribution to Cooperating Entity:

Cooperating Entity Match as of X/X/XX (date):

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The following are hereby incorporated into this Agreement:

1. General Provisions
2. Project Application and Attachments
3. Project Boundary Map
4. Other: \_\_\_\_\_

The Land for Maine's Future Board, represented by its Chair, (hereinafter LMFB), and the State of Maine, Department of Conservation, represented by its Commissioner, as the Designated State Agency (hereinafter DSA), and the Cooperating Entity, mutually agree to perform this Agreement in accordance with Title 5, Maine Revised Statutes Annotated, Section 6200 et seq., as amended, and augmented by P.L. 1999 c. 514, Sec. A-6, and with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, assurances, and certifications incorporated herein by reference and hereby made a part hereof.

Subject to the terms hereof and to the availability of funds for this purpose, LMFB hereby promises, in consideration of the promises made by the Cooperating Entity herein, to obligate to the Cooperating Entity the amount of money referred to above, and to tender to the Cooperating Entity that portion of the obligation which is required to pay the LMFB's share of the costs of the above project stage, based upon the above percentage of assistance. The Cooperating Entity hereby promises, in consideration of the promises made by the LMFB herein, to provide the matching funds and implement the project described above in accordance with the terms of this Agreement.

The following special project terms and conditions were added to this Agreement before it was signed by the parties hereto:

In witness whereof, the parties hereto have executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

**THE LAND FOR MAINE'S FUTURE BOARD**

By: \_\_\_\_\_  
[LMFB Chair], Its Chair

**STATE OF MAINE**  
**Department of** \_\_\_\_\_

By: \_\_\_\_\_  
Print Name:  
Its Commissioner

**COOPERATING ENTITY:**

By: \_\_\_\_\_

Print Name:

Title:

STATE OF MAINE

County of \_\_\_\_\_

Date: \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_, duly  
authorized \_\_\_\_\_ (title) of \_\_\_\_\_

(Cooperating Entity) and acknowledged the foregoing to be his/her free act and deed  
in his/her capacity and the free act and deed of said

\_\_\_\_\_.

Before me,

\_\_\_\_\_

Notary Public/Attorney at Law

Print Name: \_\_\_\_\_

My Commission Expires:

Seal:

# LAND FOR MAINE'S FUTURE FUND

## PROJECT AGREEMENT GENERAL PROVISIONS

### Part I – DEFINITIONS

1. The term “DSA” or “Agency” as used herein means the Designated State Agency as shown on Page 1 of the Project Agreement.
2. The term “Director” as used herein means the Commissioner or agency head of the DSA or any representative lawfully delegated the authority to act for such Director.
3. The term “Premises” as used herein means the lot or parcel or parcels of land as described and shown on Page 1 of the Project Agreement.
4. The term “Project” as used herein means a single project, a consolidated grant, a project element of a consolidated grant, or project stage which is subject to the Project Agreement, and as described on Page 1 of the Project Agreement.
5. The term “Cooperating Entity” as used herein means a political subdivision of the State of Maine or a non-profit conservation corporation which will implement the Project as provided in this agreement.

### Part II – CONTINUING ASSURANCES

The Cooperating Entity specifically recognizes that Land for Maine's Future Fund assistance project creates an obligation to acquire, use and maintain the property described in the Project Agreement consistent with Title 5, M.R.S.A., Section 6200 et seq., as amended, and augmented by P.L. 1999 c. 514, Sec. A-6, and the following requirements:

**A. LEGAL AUTHORITY:** The Cooperating Entity warrants and represents that it possesses the legal authority to apply for the grant and to otherwise carry out the project in accordance with the terms of this Agreement, and has either marketable title to the Premises or a binding agreement to acquire the same. A resolution or similar action has been duly adopted by the governing body of the Cooperating Entity authorizing the filing of the application and implementation of the Project, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the Cooperating Entity to act in connection with the application and to provide such additional information as may be required by the LMFB or the DSA and to enter into this Agreement.

**B. FINANCIAL ABILITY:** The Cooperating Entity warrants and represents that it has the funds, and the commitment to finance the cost share of acquisition together with all other costs of the Project except the Land for Maine's Future Fund share stated on the cover page of this Agreement.

**C. USE OF FUNDS:** The Cooperating Entity shall use moneys granted by LMFB hereunder only for the purposes of acquisition/access improvement of the Project as approved by LMFB and provided for herein.

**D. USE AND MAINTENANCE OF PREMISES:** The Cooperating Entity shall assure that the Premises shall be forever used, operated and maintained as prescribed in this Agreement and all applicable laws, including without limitation Title 5, M.R.S.A. Section 6200 et seq., as amended and augmented by P.L.

1999 c. 514, Sec. A-6. Permits and licenses necessary for the implementation of this Agreement or use of the property shall be obtained and complied with by the Cooperating Entity. All costs of acquisition or implementation of the project and ownership and management of the Premises shall be paid by the Cooperating Entity, except as to the cost share to be provided by LMFB as specified herein.

**E. RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS:** The Cooperating Entity shall keep a permanent record in the Cooperating Entity's public property records, available for public inspection, to the effect that the property described in the scope of the Project Agreement, and the signed and dated project boundary map made part of this Agreement has been acquired with Land for Maine's Future Fund assistance and that it cannot be converted to other than public outdoor recreational use as specifically provided by this Agreement without the prior written approval of the LMFB and the Director of the DSA.

Financial records, supporting documents, statistical records, monitoring records and all other records pertinent to this grant and the project shall be retained by the Cooperating Entity and may be inspected by representatives of LMFB and the DSA during normal business hours.

**F. ANNUAL REPORTING REQUIREMENTS:** On each anniversary of this Agreement, the Cooperating Entity shall report on an annual basis on a monitoring form as approved by LMFB. The form shall be sent to: 1) the Director of the DSA; and (2) the Director of LMFB.

**G. RIGHT OF ENTRY:** The DSA or LMFB, its employees, agents and representatives, shall have the right to enter the Premises at all times and in all manners without prior notice to assure compliance with the terms of this Agreement and any applicable laws.

**H. PROVISIONS IN THE EVENT OF TRANSFER:**

**i. PRIOR NOTICE AND APPROVAL:** In the event of any intended sale or transfer, in whole or in part, of the Premises or any interest therein, the Cooperating Entity shall provide at least sixty (60) days prior written notice of the same to the DSA and LMFB and shall obtain written consent from the same prior to such transfer.

**ii. SUBSEQUENT OWNERS:** The Cooperating Entity shall incorporate the terms of this Agreement by reference in any deed or other instrument by which the Cooperating Entity sells or transfers any interest (including leasehold interest) in all or a portion of the Premises. Any transferee of the Premises or any interest therein must hold, manage and use the Premises as provided in this Agreement.

**iii. SHARE IN PROCEEDS:**

- (a) In the event of any sale or transfer of the Premises for consideration, the Cooperating Entity shall pay to the Land for Maine's Future Fund, or to another fund designated by the LMFB, that share of the appraised value of the Premises as represents the proportion of the Fund's participation in the cost of acquisition under this Agreement. The LMFB may waive receipt of any proceeds, provided that the said funds are applied to a substitute property as approved by the LMFB. This payment to the fund shall not relieve the transferee of the continuing obligations to hold, manage and use the Premises under the terms of this Agreement.
- (b) In the event of condemnation of any or all of the Premises, the State of Maine, by and through its Land for Maine's Future Fund or another fund designated by the LMFB, shall receive that share of the proceeds of such condemnation as represents the proportion of the fund's participation in the cost of acquisition under this Agreement.
- (c) In the event of dissolution of the Cooperating Entity, at least sixty (60) days prior written notice of such shall be provided to: (1) the Director, DSA; and (2) Director, LMFB and prior written

consent to the transfer and disposal of the Premises shall be obtained from LMFB as with a conveyance of the Premises under Subsection H(ii) unless the DSA requires that the Cooperating Entity transfer title to the Premises to the DSA or a successor designated by the DSA under Subsection I(d).

**I. ENFORCEMENT ALTERNATIVES:** In the event that the Cooperating Entity does not meet one or more of its obligations under this Agreement or the deed restrictions and covenants by which it holds title to the Premises, or in the event of dissolution of the Cooperating Entity, the DSA may exercise, in its sole discretion, any of the following remedies following written notice and thirty (30) days opportunity for the Cooperating Entity to cure the default: (a) any of the remedies or rights set forth in the Cooperating Entity's deed to the Premises; (b) the right to require specific performance on the part of the Cooperating Entity; (c) the right to a return of a sum equivalent to the LMF's proportional contribution to protection of the Protected Property, which sum shall be derived by multiplying the then fair market value of the Protected Property unencumbered by this Agreement or other encumbrances recorded after the date of this agreement (excluding value attributable to authorized improvements to the Protected Property made after the date of this grant) by the ratio of the value of the LMF's contribution to the value of the Protected Property as a whole as of the date of this agreement hereby established as \_\_/\_\_, the sum of which shall be paid by the Cooperating Entity to the LMF within fifteen (15) days of its written demand; and (d) any other rights or remedies available at law or in equity including, but not limited to, the right to require that the Cooperating Entity transfer title to the Premises to the DSA or a successor designated by the DSA under such terms and conditions as the court may require. In the event that the DSA exercises any of the rights available to it upon default of the Cooperating Entity, the Cooperating Entity shall reimburse the DSA for its costs of enforcement and collection, including reasonable attorney's fees.

**J. SUCCESSORS AND ASSIGNS:** Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. In the event that the LMFB or the DSA ceases to exist, the rights and responsibilities of that party shall automatically be vested in any successor agency designated by the Legislature. Failing legislative designation, the successor agency shall be as determined by the Governor.

**K. AMENDMENT:** This Agreement may not be amended, in whole or in part, except with the written consent of all of the parties hereto.